

Update: Child Protective Proceedings Benchbook (Third Edition)

CHAPTER 2

Reporting & Investigating Suspected Child Abuse & Neglect

2.2 Mandatory Reports of Suspected Abuse or Neglect

Effective July 6, 2006, 2006 PA 264 amended MCL 722.623 to revise the list of individuals who are required to report suspected child abuse or neglect. Replace the bullets beginning on page 24 and continuing on page 25 with the following text:

- physicians;
- dentists;
- physician's assistants;
- registered dental hygienists;
- medical examiners;
- nurses;
- persons licensed to provide emergency medical care;
- audiologists;
- psychologists;
- marriage and family therapists;
- licensed professional counselors;
- social workers;
- licensed master's social workers;
- licensed bachelor's social workers;

- registered social service technicians;
- social service technicians;
- school administrators;
- school counselors or teachers;
- law enforcement officers;
- members of the clergy; and
- regulated child care providers.

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2.7 Investigation and Referral Requirements

Effective July 6, 2006, 2006 PA 256 revised the circumstances under which the Department of Human Services and local law enforcement agencies must refer a report of child abuse or neglect or must undertake an investigation. Replace the quoted paragraph at the top of page 30 with the following text:

“Within 24 hours after receiving a report made under this act, the department shall refer the report to the prosecuting attorney if the report meets the requirements of [MCL 722.623(6) or (9)] or shall commence an investigation of the child suspected of being abused or neglected. Within 24 hours after receiving a report whether from the reporting person or from the department under [MCL 722.623(6) or (9)], the local law enforcement agency shall refer the report to the department if the report meets the requirements of [MCL 722.623(7)] or shall commence an investigation of the child suspected of being abused or neglected or exposed to or who has had contact with methamphetamine production.” MCL 722.628(1).

Effective July 6, 2006, 2006 PA 264 revised the circumstances under which the Department of Human Services must transmit a copy of an allegation or written report and the results of any investigation to a law enforcement agency in the county in which the incident occurred, to include a child’s exposure to or contact with methamphetamine production. Replace the quote of MCL 722.623(6) beginning on page 30 and continuing on the top of page 31 with the following text:

“If an allegation, written report, or subsequent investigation of suspected child abuse or child neglect indicates a violation of [MCL 750.136b (criminal child abuse), MCL 750.145c (child sexually abusive material or activity), MCL 750.520b to MCL 750.520g (criminal sexual conduct), or MCL 333.7401c (manufacture of controlled substances)], involving methamphetamine has occurred, or if the allegation, written report, or subsequent investigation indicates that the suspected child abuse or child neglect was committed by an individual who is not a person responsible for the child’s health or welfare, including, but not limited to, a member of the clergy, a teacher, or a teacher’s aide, the department shall transmit a copy of the allegation or written report and the results of

any investigation to a law enforcement agency in the county in which the incident occurred. If an allegation, written report, or subsequent investigation indicates that the individual who committed the suspected abuse or neglect is a child care provider and the department believes that the report has basis in fact, the department shall transmit a copy of the written report or the results of the investigation to the child care regulatory agency with authority over the child care provider's child care organization or adult foster care location authorized to care for a child."

Effective July 6, 2006, 2006 PA 264 revised the circumstances under which a local law enforcement agency must refer an allegation, or provide a written report and the results of any investigation, to the Department of Human Services, to include a child's exposure to or contact with methamphetamine production. Replace the quote of MCL 722.623(7) in the middle of page 31 with the following text:

"If a local law enforcement agency receives an allegation or written report of suspected child abuse or child neglect or discovers evidence of or receives a report of an individual allowing a child to be exposed to or to have contact with methamphetamine production, and the allegation, written report, or subsequent investigation indicates that the child abuse or child neglect or allowing a child to be exposed to or to have contact with methamphetamine production, was committed by a person responsible for the child's health or welfare, the local law enforcement agency shall refer the allegation or provide a copy of the written report and the results of any investigation to the county department of the county in which the abused or neglected child is found, as required by subsection (1)(a). If an allegation, written report, or subsequent investigation indicates that the individual who committed the suspected abuse or neglect or allowed a child to be exposed to or to have contact with methamphetamine production, is a child care provider and the local law enforcement agency believes that the report has basis in fact, the local law enforcement agency shall transmit a copy of the written report or the results of the investigation to the child care regulatory agency with authority over the child care provider's child care organization or adult foster care location authorized to care for a child. Nothing in this subsection or subsection (1) shall be construed to relieve the department of its responsibilities to investigate reports of suspected child abuse or child neglect under this act."

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2.8 Required Cooperation Between DHS and Law Enforcement Officials

Effective July 6, 2006, 2006 PA 256 amended MCL 722.628(3) to add an additional circumstance in which the Department of Human Services must seek the assistance of, and must cooperate with, law enforcement officials. Add the following text to the quote of MCL 722.628(3)(a)–(e) near the middle of page 33:

“(f) The child has been exposed to or had contact with methamphetamine production.”

2.9 Required Use of Protocols

Effective July 6, 2006, 2006 PA 263 amended MCL 722.628b to require the Department of Human Services (DHS) to refer a “central registry case” to the prosecuting attorney if the case involves a child’s exposure to or contact with methamphetamine production. Replace the first paragraph in this section on page 33 with the following text:

If a “central registry case” involves a child’s death, serious physical injury of a child, or sexual abuse or exploitation of a child, the DHS must refer the case to the prosecuting attorney for the county in which the child is located. MCL 722.628b. Similarly, if a “central registry case” involves a child’s exposure to or contact with methamphetamine production, the DHS also must refer the case to the prosecuting attorney for the county in which the child is located. *Id.* In both cases, the prosecuting attorney must review the case to determine whether the investigation complied with the required protocol. *Id.* A “central registry case” means a case that the DHS classifies as Category I or Category II. For cases investigated before July 1, 1999, a “central registry case” means a case involving a “substantiated” allegation of abuse or neglect. See MCL 722.622(d).*

*See Section 2.19, below, for a detailed discussion of the required classification of all allegations of child abuse and neglect.

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2.11 Investigation and Custody Requirements When a Child Is Brought to a Hospital

Effective July 6, 2006, 2006 PA 266 amended MCL 722.626 to add a second circumstance in which the Department of Human Services (DHS) must have a medical evaluation made without a court order. Replace the last sentence in the first full paragraph on page 36 with the following text:

If the child's health is seriously endangered and a court order cannot be obtained, or if the child is displaying symptoms suspected to be the result of exposure to or contact with methamphetamine production, the DHS shall have an evaluation performed without a court order. MCL 722.626(3)(a) and (b).

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2.15 Constitutional Requirements for Reporting and Investigating Suspected Child Abuse or Neglect

C. Cooperative and Joint Investigations of Suspected Child Abuse or Neglect

Effective July 6, 2006, 2006 PA 256 amended MCL 722.628(3) to add an additional circumstance in which the Department of Human Services (DHS) must seek the assistance of, and must cooperate with, law enforcement officials. Replace the first paragraph in this subsection on page 44 with the following text:

Cooperative investigations of suspected abuse or neglect. By statute in Michigan, the DHS and law enforcement officials are required to cooperate during investigations of suspected child abuse or neglect or when a child's exposure to or contact with methamphetamine production is suspected. MCL 722.628(2)–(4). In addition, the DHS is required to refer complaints that include Penal Code violations to the prosecuting attorney. MCL 722.623(6).*

*See Sections 2.7–2.8, above.

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2.21 Time Requirements for Filing a Petition in Cases Involving Severe Physical Injury or Sexual Abuse

Effective July 6, 2006, 2006 PA 256 amended MCL 722.637 to add an additional circumstance under which the Department of Human Services (DHS) must file a petition seeking Family Division jurisdiction under MCL 712A.2(b). Replace the last paragraph on page 57 with the following text:

Within 24 hours after the DHS determines that a child was severely physically injured, sexually abused,* or allowed to be exposed to or have contact with methamphetamine production, the agency must file a petition seeking Family Division jurisdiction under MCL 712A.2(b). MCL 722.637.

*See Section 2.1(A), above, for definitions of “severe physical injury” and “sexual abuse.”

CHAPTER 5

Notice & Time Requirements

5.13 Table of Time and Notice Requirements in Child Protective Proceedings

Effective July 6, 2006, 2006 PA 256 amended the notice requirements of MCL 722.628(1) and MCL 722.637. Replace the table on page 155 with the following table:

Type of Proceeding	Time and Notice Requirements	Authorities and Cross-References
Reporting Suspected Abuse or Neglect	Oral report must be made immediately. Written report must be filed with the DHS within 72 hours of the oral report.	MCL 722.623(1)(a). See Section 2.6
Investigating Suspected Abuse, Neglect, or Exposure to or Contact with Methamphetamine Production	Report must be referred to the appropriate agency and/or an investigation must be commenced within 24 hours.	MCL 722.628(1), (6), and (7). See Section 2.7
Mandatory Petitions in Cases of Severe Physical Abuse, Sexual Abuse, or Exposure to or Contact with Methamphetamine Production	DHS must file petition within 24 hours after determining that child was severely physically injured, sexually abused, or allowed to be exposed to or have contact with methamphetamine production.	MCL 722.637. See Section 2.21
Preliminary Inquiries	May be conducted at any time. There is no notice requirement.	MCR 3.962(A). See Section 6.6

CHAPTER 6

Petitions & Preliminary Inquiries

6.2 Persons Who May Submit a Petition to Court

Effective July 6, 2006, 2006 PA 256 amended MCL 722.637 to add an additional circumstance in which the Department of Human Services must file a petition seeking Family Division jurisdiction under MCL 712A.2(b). Replace the second full paragraph on page 176 with the following text:

Within 24 hours after the Department of Human Services determines that a child was severely physically injured, sexually abused, or allowed to be exposed to or have contact with methamphetamine production, the agency must file a petition seeking Family Division jurisdiction under MCL 712A.2(b). MCL 722.637.

CHAPTER 13

Initial Dispositions

13.9 Dispositional Options Available to Court

I. Orders to Pay Child Support

In an order effective July 1, 2006, the Michigan Supreme Court revised Michigan Court Rule 3.973(F) to include an additional dispositional option available to courts. Immediately before Section 13.10 on page 364, add a new subsection as indicated and insert the following text:

The court may order one or both of the child's parents to pay child support. MCR 3.973(F)(5). To order child support under MCR 3.973(F), the court must use the Michigan Child Support Formula, MCL 552.605, and the Uniform Support Order, MCR 3.211(D). MCR 3.973(F).

CHAPTER 14

Paying the Costs of Child Protective Proceedings

14.2 Orders for Reimbursement of the Costs of Care or Services When a Child Is Placed Outside the Home

A. Amount of Reimbursement

By an order effective July 1, 2006, the Michigan Supreme Court adopted the Michigan Child Support Formula Schedules Supplement from the Michigan Child Support Formula Manual to replace the July 30, 1990 Schedule of Payments in the Guideline for Court Ordered Reimbursement. Replace the first paragraph in the middle of page 376 with the following text:

A reimbursement order “shall be reasonable, taking into account both the income and resources of the juvenile, parent, guardian, or custodian.” MCL 712A.18(2). The amount may be based upon the Michigan Child Support Formula Schedules Supplement from the Michigan Child Support Formula Manual. See MCL 712A.18(2) and (6).*

*Effective July 1, 2006, the Michigan Child Support Formula Schedules Supplement replaced the guidelines and model schedule to which MCL 712A.18(2) and (6) refer.

CHAPTER 14

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14.3 Orders for Reimbursement of the Costs of Service When a Child Is Placed in the Child's Own Home

By an order effective July 1, 2006, the Michigan Supreme Court adopted the Michigan Child Support Formula Schedules Supplement from the Michigan Child Support Formula Manual to replace the July 30, 1990 Schedule of Payments in the Guideline for Court Ordered Reimbursement. Replace the second paragraph near the top of page 380 with the following text:

The Michigan Child Support Formula Schedules Supplement from the Michigan Child Support Formula Manual may be used for determining the amount of reimbursement. See MCL 712A.18(6).*

*Effective July 1, 2006, the Michigan Child Support Formula Schedules Supplement replaced the guidelines and model schedule to which MCL 712A.18(6) refers.